Public Health Appeal Board

2013 Annual Report

Prepared for the Minister of Health

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Role of the Public Health Appeal Board

The Board was established under section 3 of the *Public Health Act*. Its mandate, role and responsibilities are also set out in the *Alberta Public Agencies Government Act*, *Public Health Act Waiver Regulation*, *Public Inquiries Act*, and the *Order in Council* appointing the Board members.

The Board consists of 5 members and 3 members constitute a quorum at a meeting or hearing of the Board.

The duties of the Board include hearing appeals from individuals who have been directly affected by an order issued under section 62 of the Act or a decision to issue, cancel, suspend or refuse to issue a licence, permit or other approval provided for in the regulations and any other decision in respect of which an appeal is permitted under the regulations.

The Appellant must be directly affected by an order or a decision and feel aggrieved by that order or decision.

Most appeals submitted to the Board relate to orders issued under section 62 of the Act. The orders are issued after an Executive Officer has inspected a private or public place and has probable grounds to believe that a nuisance exists or that there has been a contravention of the Act or its regulations.

An order may include the following:

- Requiring the vacating of the place;
- Declaring the place or any part of it to be unfit for human habitation;
- Requiring the closure of the place;
- Requiring the removal from the place anything that the order states causes a nuisance;
- Requiring the destruction of anything specified in the order;
- Prohibiting or regulating the selling, offering for sale, supplying, distributing, displaying, manufacturing, preparing, preserving, processing, packaging, serving, storing, transporting or handling of any food or thing in, on, to or from the place.

The Board may confirm, reverse or vary the order or decision or may refer the matter to Alberta Health Services for further consideration and redetermination. The Board provides written decisions to Alberta Health Services and the Appellant.

The Board is guided by the principals of administrative law and natural justice as they apply to quasi-judicial tribunals.

The Board is required to make a report each year to the Minister summarizing generally its activities and affairs in the preceding year. This report covers the activities and affairs of the Board from January 1, 2013 to December 31, 2013. .

Board Members for 2013

Kenneth Hodgins – Fort Saskatchewan Chair

Mr. Hodgin's background is in the Men's Wear retail business for 35 years; 27 years as owner/operator. Ken has been active in many community organizations. He served 18 years on municipal council; 9 years as alderman and 9 years as mayor of Fort Saskatchewan. Ken recently retired as executive director of the Fort Saskatchewan Chamber of Commerce. Mr. Hodgins was appointed as a Board member on February 29, 2012.

Lillian Douglass – Edmonton Vice Chair

Ms. Douglass is a former associate professor and associate dean at the University of Alberta. She has served on a number of boards at the provincial, national, and international levels. Her varied professional pursuits include health promotion and graduate education development internationally. Lillian is a recipient of the Alberta Centennial Medal. Ms. Douglass was appointed to the Board on February 29, 2012 and resigned in October 2013.

Diana Demeules – Calgary

Ms. Demeules is a former Military Police member who served twenty years with the Canadian Forces. Diana has also served on numerous boards pertaining to Victim Rights and spent two years as the investigative specialist for the Canadian Food Inspection Agency. She recently transferred to Transport Canada where she is an Aviation Security Inspector. Ms. Demeules was appointed as a Board member on April 14, 2011.

Phyllis Kobasiuk – Spruce Grove

Ms. Kobasiuk has served municipal and provincial government for over forty years in various governance roles. First elected to the County of Parkland in 1989, Phyllis has been Councillor; Reeve; and, Board of Education Trustee and Chair. In 2004 she became the first publicly elected Mayor of Parkland County. For ten years Phyllis served as the Pembina Director on the Executive of the Alberta Association of Municipal Districts and Counties. Currently, Phyllis is a Peer Mentor with Alberta Municipal Affairs. In recognition of her many contributions, she has been awarded the Parkland County Community Service Award of Excellence, Premier's Award of Municipal Excellence, the Alberta Centennial Medal, and the Queen's Diamond Jubilee Award. Ms. Kobasiuk was appointed as a Board member on August 25, 2011.

Terry Bunce – Calgary

Terry Bunce has been active with a variety of theatre, dance, and community service organizations for several decades. His work on quasi-judicial panels is a logical extension of his community activism and social conscience. He has served in adjudicative positions for the past 13 years including the Appeals Commission for Workers' Compensation, Persons with Developmental Disabilities Appeal Secretariat, and as a Hearing Adjudicator for inmate disciplinary matters in Alberta correctional facilities. Terry enjoys the consensus-based decision-making format of the Board and considers it a privilege to be able to make a positive contribution to the community through the decisions rendered. Mr. Bunce was appointed as a Board member on February 9, 2012.

Summary of Board Activities 2013

Appeals received in 2013

Number of Appeals received, carried forward from previous years and to the next year	
Number of Notices of Appeal received by the Board in 2013	29
Number of Appeals carried over from previous years	3
Number of Appeals carried over to 2014	5
Total number of Appeals completed in 2013	27

Compared to 2011 and 2012

Number of Appeals received, carried forward from previous years and to the next year	2011	2012	2013
Notice of Appeals received	35	27	29
Carried over from previous years	10	10	3
Carried over to the next year	10	3	5
Appeals completed	35	34	27

The total number of appeals completed in 2013 was 27 which was a 22% decrease from the total number of appeals completed in 2011 and 20% decrease from 2012.

Appeals Resulting in a Hearing

After an appeal is submitted by the Appellant, the Board sets a hearing date to hear the submissions of the Appellant, Alberta Health Services and any Intervenors. The appeals submitted by the Appellants frequently do not proceed to a hearing. In 2013 one half of the completed appeals resulted in a hearing and one half did not proceed to a hearing.

Appeals Resulting in a Hearing vs no Hearing	**2013**
Hearings completed by the Board	13
Appeal did not progress to a hearing	14
Appeals completed in 2013	27

Compared to 2011 and 2012

Appeals Resulting in a Hearing vs no Hearing	**2011**	**2012**	**2013**
Hearings completed by the Board	10	8	13
Appeal did not progress to a hearing	25	26	14
Total Appeals completed	35	34	27

Although the Board completed 20% and 21% less appeals in 2013 compared to 2011 and 2012 respectively, the Board completed 30% more hearings than in 2011 and 62% more than in 2012.

Hearing Results in 2013

The Board may confirm, reverse or vary the order or decision being appealed or may refer the matter to Alberta Health Services for further consideration and redetermination.

Hearing Results in 2013	
Board confirmed order	8
Board varied order	3
Board reversed order	1
Board referred matter back to AHS	1
Total Hearings completed in 2013	13

Compared to 2011 and 2012

Hearing Results	2011	2012	2013
Board confirmed order	7	8	8
Board varied order	3		3
Board reversed order			1
Board referred the matter back to AHS			1
Total number of hearings	10	8	13

In 2013 62% of the hearings resulted in the Board confirming the order compared to 70% in 2011 and 100% in 2012.

Appeals Resulting in No Hearing

When an appeal does not progress to a hearing the primary reason is that an Appellant withdraws the appeal prior to the hearing date being set or the hearing commencing.

Appeals Resulting in No Hearing	2013
Appellant withdrew appeal or abandoned the appeal	13
Board found there was no order issued to appeal	1
Appeals that did not progress to a hearing in 2013	14

Compared to 2011 and 2012

Appeals that did not proceed to a Hearing	2011	2012	2013
Appellant withdrew or abandoned appeal	19	23	13
Appeal period expired and was not extended by Board	5	2	0
No order issued to appeal	1	1	1
Total Appeals that did not proceed for an Hearing	25	26	14

Subject Matter of Appeals

The majority of appeals completed by the Board in 2013 related to rental housing: 89%.

Subject Matter of 2013 Appeals	2013	%
Rental accommodation/housing	24	89
Pools/Leisure facilities	2	7
Food Establishments	1	4
Water/wells	0	
Total	27	100

Appeals by Zone

Appeals submitted to the Board from the 5 Alberta Health Services' Districts are set out below. The appeals submitted from the Edmonton zone decreased from 49% in 2011 to 19% in 2013 while the appeals submitted from the Calgary zone increased from 23% in 2011 to 41% in 2013.

Appeals by Zone	2011	2012	2013
Zone 1 South	1	0	2
Zone 2 Calgary	8	14	11
Zone 3 Central	4	4	6
Zone 4 Edmonton	17	11	5
Zone 5 North	5	5	3
Totals	35	34	27

Percentage of Appeals by Zone

Appeals by Zone - %	2011	2012	2013
Zone 1 South	3	0	7
Zone 2 Calgary	23	41	41
Zone 3 Central	11	12	22
Zone 4 Edmonton	49	32	19
Zone 5 North	14	15	11
Totals	100%	100%	100%

Other Board Activities

With the proclamation of the *Alberta Public Agencies Governance Act* in June 2013, the Board reviewed the requirements of the Act and began the process of implementing those requirements. Two members attended an information session in July related to the new requirements.

The Board participated in training sessions related to the *Public Health Act* and its responsibilities as a quasi-judicial decision maker. One of the training sessions was a workshop in decision writing which assisted the Board in improving its deliberation and decision writing processes. A new format for decision writing was adopted as well as a new template for written decisions. The changes resulted in decisions being more comprehensive, understandable and timely.

The Board created its own logo or "brand" to use in external and internal documentation and reports.